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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,097	08/08/2003	Yu Zheng	PAT-1130CC2	5018
7590		08/29/2005	EXAMINER	
Raymond Sun		WILKENS, JANET MARIE		
12420 Woodhall Way		ART UNIT		
Tustin, CA 92782		PAPER NUMBER		
		3637		

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/637,097	<b>Applicant(s)</b> ZHENG, YU	
	<b>Examiner</b> Janet M. Wilkens	<b>Art Unit</b> 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18,20-23 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18,20-23 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3637

Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on June 27, 2005.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 18, 20-23 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,604,537. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels attached at adjacent edges thereof via stitching and sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed. It also would be obvious to add the fabric material onto the frame so that it and the frame form a flat structure, for aesthetic reasons, etc.

Claims 18, 20-22 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 10, 11, 13, 15, 17-19, 21, 23 and 24 of U.S. Patent No. 6,209,557. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels attached at adjacent edges thereof via sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed. It also would be obvious to add the fabric material onto the frame so that it and the frame form a flat structure, for aesthetic reasons, etc.

Claims 18, 20-23 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 8 and 12 of U.S. Patent No. 5,778,915. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels attached at adjacent edges thereof via stitching and sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed. It also would be obvious to add the fabric material onto the frame so that it and the frame form a flat structure, for aesthetic reasons, etc.

Claims 18, 20-22 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 and 9-12 of U.S. Patent No. 5,579,799. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent

teach a pair of foldable panels attached at adjacent edges thereof via sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed. It also would be obvious to add the fabric material onto the frame so that it and the frame form a flat structure, for aesthetic reasons, etc.

Claims 18, 20-23 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 5 of U.S. Patent No. 5,560,385. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels attached at adjacent edges thereof via stitching and sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed. It also would be obvious to add the fabric material onto the frame so that it and the frame form a flat structure, for aesthetic reasons, etc.

Claims 18, 20-23 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,851,439 in view of Wan. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable flat panels hingedly attached at adjacent edges thereof. The folding panels are themselves foldable in a manner wherein concentric rings are formed. Although it is not stated how the panels are attached, it would have been

Art Unit: 3637

obvious to employ sleeves, such as is shown by Wan in Fig. 4, to provide a specific aesthetically pleasing hinge attachment between the panels.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18, 20-23 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Wan. Wan teaches a collapsible structure (Fig. 3A; laying one member 30 on the floor) comprised of a flat side member (30) and flat base member (30 member on floor), each including a foldable frame member and having fabric there over. The side and bottom members being hingedly attached at their bottom/side respectively via separate sleeves and stitching (see Fig. 4) and fold on top of each other forming concentric rings. Note: limitations found in “for”/intended use statements have been given no weight in the claims. Furthermore, stating that the walls 30 are “angular” is taken to mean that they are positioned at an angle with respect to the ground/floor surface.

### ***Response to Arguments***

In response to the arguments concerning the double patenting rejections: the term “base” is merely nomenclature. For example, by setting one of the disclosed

Art Unit: 3637

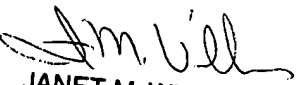
panels of the cited references on a floor surface, it inherently becomes a base member. As for the newly added "flat" limitation, as stated above, it also would be obvious to add the fabric material onto the frames of the disclosed panels so that it and the frames form flat structures, for aesthetic reasons, etc. Furthermore, that some of the cited reference claims contain additional limitations is irrelevant. The double patenting rejection is over the instant application's claims and the claims of the cited references contain the features disclosed therein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens  
August 25, 2005

  
JANET M. WILKENS  
PRIMARY EXAMINER  
Art Unit 3637